

## REMARKS

This application has been reviewed in light of the “Final” Office Action dated September 5, 2003. Claims 13-21 are pending in this application. Claims 13 and 14 are the independent claims. Favorable reconsideration is requested.

Initially, it is noted that Applicants’ undersigned representative was notified in a telephone conversation with the Examiner on or around May 6, 2004 that the U.S. Patent and Trademark Office (USPTO) did not receive the Response To Final Office (hereinafter “the Response”) mailed to the USPTO on Wednesday, November 5, 2003 with a certificate of mailing under 37 C.F.R. § 1.8(a), even though a copy of the Response was resubmitted to the USPTO on February 13, 2004 (and then later again on May 11, 2004). It also is understood that the Response has not been entered by the Patent and Trademark Office. Therefore, those remarks are now being resubmitted herein, and are believed to constitute a proper submission under 37 C.F.R. § 1.114. The arguments are set forth below.

The Office Action stated that Claims 15-18 are objected to, but would be allowable if rewritten so as not to depend from a rejected claim. Those claims have not been so rewritten at this time, however, because the corresponding base claim from which each depends is believed to be patentable.

Claim 20 was objected to under 37 CFR § 1.75(c) as allegedly being in improper form. However, the Office Action does not set forth clearly the reasons supporting this objection, other than the incomplete statement that the rejection has been made “because a multiple dependent claim 19.”

In any event, Claim 20 depends from any one of Claims 13, 14, 17, or 18, each of which claims is in dependent (rather than multiply-dependent) form. Accordingly, Claim 20 is believed to be in proper dependent form, and withdrawal of the objection to that claim is therefore respectfully requested.

Also in the Office Action, Claims 13, 14, and 19-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,184,610 (Shibata et al.) in view of U.S. Patent No. 6,147,449 (Iwasaki et al.).

Claim 13 is directed to an electron-emitting device comprising first and second electrodes arranged on a surface of a substrate, first and second carbon films, and a voltage applier, for applying a voltage between the first electrode and the second electrode, to emit electrons. A first end of the first carbon film is electrically connected to the first electrode, and a first end of the second carbon film is electrically connected to the second electrode. A second end of the first carbon film and a second end of the second carbon film are disposed in opposition to each other across a gap, the second end of the first carbon film is more distant from the surface of the substrate than the second end of the second carbon film, and the voltage applier applies a potential greater than a potential of the second electrode to the first electrode in order to emit electrons.

Independent Claim 14 recites an electron-emitting device comprising first and second electrodes arranged on a surface of a substrate, first and second carbon films, and a voltage applier, for applying a voltage between the first electrode and the second electrode to emit electrons. The first carbon film is electrically connected to the first electrode, the second carbon film is electrically connected to the second electrode, and

the first carbon film and the second carbon film are disposed in opposition to each other across a gap. An end of the first carbon film is more distant from the surface of the substrate than an end of the second carbon film, and the voltage applier applies a potential greater than a potential of the second electrode to the first electrode in order to emit electrons.

Fig. 21A of Shibata et al. depicts a substrate 1, a pair of device electrodes 2 and 3, and an electroconductive film 4 covered by a metal oxide coat 6 made mainly of MgO. Carbon 7 is deposited on and around an electron-emitting region as a result of an activation process. Carbon 7 does not completely cover the metal oxide coat 6 and the surface of the metal oxide coat 6 is randomly exposed at a number of different areas. (Col. 29, lines 10-18).

While a relatively large amount of carbon 7 was deposited on a high potential side of the device by activation, a substantially same amount of carbon was deposited on both sides as shown in Fig. 21B. The electron-emitting device of this example has a metal oxide coat 6 mainly made of  $Y_2O_3$  formed on the film 4 and the carbon 7 deposited by activation.

Fig. 21C shows a device in which a reference symbol "4+6" represents an electroconductive film containing a metal oxide material.

According to Shibata et al., a metal oxide film 6 is disposed on an electroconductive thin film 4, which is disposed on both of two electrodes 2 and 3. This is because, according to Shibata et al., the metal oxide film 6 coats the electroconductive film 4 for the purpose of suppressing the degradation of the electroconductive film 4 due to

cohesion (see, e.g., col. 2, line 55 to col. 3, line 3). Further, a carbon film 7 is disposed on the metal oxide 6 on both of the electrodes 2 and 3.

Referring now to Iwasaki et al., beginning at col. 19, line 49 it is stated that, as a result of observation by SEM, it was confirmed that the coating film of W was formed on the high potential (positive electrode) side of the electron-emitting fissure for both the devices of Examples 1 and 2, as depicted in Fig. 13A. On the low potential (negative electrode) side, no appreciable coating film was found. According to Iwasaki et al., for some of the devices fabricated under the conditions similar to those in this example, a slight coating film was also found on the low potential side depending on the conditions, as depicted in Fig. 13C.

According to Iwasaki et al., for the purpose of suppressing local melting and deformation of an electroconductive thin film due to heating the electron emitting area, a film 6 of a material of a higher melting point (rather than the electroconductive thin film 4) is disposed at an end (at a higher potential side) of the electroconductive thin film 4, positioned on the electron-emitting area (col. 3, line 66 to col. 4, line 39). Figs. 13B and 13C show an example in which a film 6 of a higher melting point material is disposed on the electroconductive film 4 on both of the electrodes 2 and 3. As the higher melting point material, metal oxide is also disposed (see col. 8, lines 8-33).

The Office Action states that “[i]t would have been obvious . . . to have manufacture the carbon film coating of Shibata according to the configuration of Iwasaki in order to provide a stable characteristics of electron emission and also has improved efficiency of electron emission and maintain excellent stability during operation.”

However, in Shibata et al. the carbon 7 covers the metal oxide coat 6 (Fig. 21A), the electroconductive film 4 (Fig. 21B), or the electroconductive film containing a metal oxide material (4+6), and, in Fig. 13A of Iwasaki et al., a slight coating was formed on the electroconductive film 4. Nothing in either of those references would teach or suggest an electron-emitting device in which an end of a first carbon film is more distant from the surface of a substrate than an end of a second carbon film, and wherein a greater potential than a potential of a second electrode electrically connected to the second carbon film, is applied to a first electrode electrically connected to the first carbon film, and wherein a voltage applier applies a voltage between the first and second electrodes, as recited in Claims 13 and 14.

As such, even assuming *arguendo* if Shibata et al. and Iwasaki et al. were to be combined in the manner proposed in the Office Action, the resulting combination still would not teach or suggest those features. Accordingly, Claims 13 and 14 are each deemed clearly patentable over those references, whether considered separately or in combination.

The other claims in this application depend from one or another of the independent claims discussed above, and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

The Office Action states that it had been made “final” because Applicants’ previous amendment necessitated a new ground of rejection. However, the Amendment of August 7, 2003 merely clarified in the independent claims that a voltage applier applies a

voltage between the first and second electrodes. Those claims previously already recited that the electrodes had potentials, and thus the clarifying amendments made in the August 7, 2003 Amendment are not believed to have raised any further issues or require a further search. Accordingly, it is believed that the August 7, 2003 Amendment did not necessitate any new ground of rejection, and that the Office Action should not have been made final.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

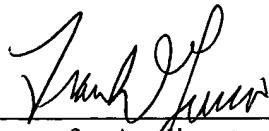
REQUEST FOR REFUND

Because the above-mentioned Response is believed to have been timely filed as long ago as on November 5, 2003 (within two months from the issue date of the Office Action dated September 5, 2003), and yet Applicants never received any reply to that Response whatsoever from the Patent and Trademark Office, it is believed that Applicants should not have to bear the extension fees (\$950.00, paid on March 5, 2004, and \$420.00, paid herewith), the fee for filing the Notice of Appeal (\$330.00, paid on March 5, 2004), and the Request For Continued Examination fee (\$770.00, paid herewith), required to maintain the continued pendency of this case and to resubmit the above arguments. Therefore, it is respectfully requested that Applicants be refunded for the amounts paid for those fees. Please credit any such refunds to Deposit Account 06-1205. If the Patent and Trademark Office needs any additional information in order to process this request, or if it believes that the refunds should not be granted, it is respectfully requested that the undersigned attorney be contacted.

CONCLUSION

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

  
\_\_\_\_\_  
Attorney for Applicants  
Registration No. 72476

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200

NY\_MAIN 438445v1